

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON
and CABELL COUNTY
COMMISSION,

Plaintiffs,

v.

CIVIL ACTION NOS. 3:17-01362
& 3:17-01665

AMERISOURCEBERGEN
DRUG CORPORATION, et al.,

Defendants.

**STIPULATION BETWEEN DEFENDANT MCKESSON CORPORATION
AND PLAINTIFFS CABELL COUNTY & CITY OF HUNTINGTON**

Comes now Defendant McKesson Corporation (“McKesson”), and Plaintiffs Cabell County Commission (“County”) and City of Huntington (“City”) (collectively, “CT2 Plaintiffs”), having met and conferred regarding certain discovery and evidentiary issues the resolution of which required coordination with the MDL PEC and leadership from the WV MLP (19-C-9000). Counsel for the County represents that he has authority to bind the MDL PEC and speak on behalf of the WV MLP. Based on mutual promises and conditions, McKesson and the CT2 Plaintiffs enter into the following stipulation:

1. The CT2 Plaintiffs will not take any further fact depositions of McKesson witnesses in connection with CT2. The CT2 Plaintiffs will withdraw their Rule 30(b)(6) notice to McKesson.
2. The CT2 and WV MLP Plaintiffs will not seek to depose John Hambergren, nor call him to testify at a future trial in those matters. McKesson retains the right to seek Mr. Hambergren’s testimony in the defense case in CT2 or at a future WV MLP trial.

3. The CT2 Plaintiffs will withdraw their pending motion to compel live video testimony of McKesson witnesses at trial.

4. McKesson agrees to produce Michael Oriente and Bill de Gutierrez-Mahoney to testify during Plaintiffs' case-in-chief, if requested. The CT2 Plaintiffs will provide proper and sufficient notice if they request these witnesses to testify at trial. The parties agree to continue monitoring the relevant COVID-19 health directives and will address safety issues as they evolve. If the COVID-19 health situation makes live testimony impractical for the witnesses because of health circumstances, McKesson and CT2 Plaintiffs will confer about the same and other mechanisms for live testimony, including livestream. This agreement in no way limits the right of the CT2 Plaintiffs right to seek subpoenas of other McKesson witnesses to appear at trial.

5. The CT2 Plaintiffs, the MDL PEC, and the WV MLP Plaintiffs will not seek to depose or re-depose Mr. Oriente or Mr. de Gutierrez-Mahoney until after the resolution of CT2.

6. McKesson and the CT2 Plaintiffs will begin a process for reviewing the authenticity and foundation for McKesson-produced documents that Plaintiffs identify between now and trial. The Plaintiffs have expressed a desire to, as much as possible, negate the need for Plaintiffs to bring multiple McKesson witnesses to trial for the sole purpose of authenticating and establishing the proper foundation for use of the identified documents at trial. The parties will work in good faith to address specific issues relating to authenticity and foundation between now and trial. Plaintiffs will be provided an opportunity to cure all unresolved issues relating to authenticity and foundation, including the ability to depose and/or call a custodial witness at trial. McKesson reserves its right to object to the admissibility of all such documents, including

pursuant to Federal Rules of Evidence 401, 402, 403, and hearsay. The same agreement shall apply to the WV MLP.

Dated: August 21, 2020

Respectfully Submitted,

Defendant McKesson Corporation
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